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IN THE HIGH COURT OF JUDICATURE AT BOMBAY

CRIMINAL APPELLATE JURISDICTION

CRIMINAL REVISION APPLICATION NO. 174 OF 2007

Office Notes, Office Memoranda of : coram, appearances, Court's Orders: or directions and Registrar Orders:	Court's or Judge's orders

Mr.P.D. Dalvi for the petitioner.

Mr.Rajesh More, A.P.P. for the State.

CORAM : D.G. KARNIK, J.

DATE : 19TH JULY 2007

P.C. :

1. Heard learned counsel for the applicant.

2. By this revision application, the applicant challenges the judgment and order dated 13th February 2007 passed by the IInd Adhoc Additional Sessions Judge, Kalyan acquitting the accused of the charges under sections 366, 376 and 506 of I.P.C.

3. The State has not filed an appeal against the order of acquittal.

4. In the case of **Chinnaswamy v. State of Andhra Pradesh, reported in**

1963(1) Cri.L.J. 8, the Supreme Court has held that though it is open to the High Court in a revision to set aside an order of acquittal even at the instance of a private party, where the State may not have filed the appeal, this jurisdiction should be exercised by the High Court only in exceptional cases, when there is some glaring defect in the procedure or there is a manifest error on a point of law and consequently there has been a flagrant miscarriage of justice. In the present case, learned counsel for the applicant was unable to point out existence of any of such circumstances.

5. Evidence on record shows that the prosecutrix - applicant accompanied the accused in a ST bus from Ambarnath to Shirdi and stayed with him in a lodge for a period of 7-8 days. It is alleged that all this was done under threat. The fact that there were several persons present in the bus and the prosecutrix travelled with the accused without raising any alarm and she even accompanied him in a lodge and stayed

there for 7-8 days are circumstances which clearly indicate consent.

6. In the circumstances, no case is made out for interference in exercise of revisional jurisdiction. Revision application is dismissed.

(D.G. KARNIK, J.)